

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Waste Oil Recovery Systems,
Inc.
6401 Leona Street
Oakland, California 94605

ID No.: CAD 000 626 515

Respondent.

Docket HWCA 2003-0293

STIPULATION AND ORDER

Health and Safety Code

Section 25187

The State Department of Toxic Substances Control (Department) and Waste Oil Recovery Systems, Inc. (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order issued by the Department on October 21, 2003. (Attached as Exhibit 1.)

2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.

3. Jurisdiction exists pursuant to Health and Safety Code section 25187.

1 4. Respondent waives any right to a hearing in this
2 matter.

3 5. This Order shall constitute full settlement of the
4 violation alleged in the Enforcement Order, but does not limit
5 the Department from taking appropriate enforcement action
6 concerning other violations.

7 6. Respondent admits the violation.

8 SCHEDULE FOR COMPLIANCE

9 7. Respondent shall comply with the following:

10 7.1. Effective immediately, Respondent shall not
11 store hazardous waste in excess of the 10 days allowed under the
12 transfer facility exemption in a tanker truck, unless it first
13 applies and obtains the proper permit or grant of authorization
14 from the Department.

15 7.2. Submittals: All submittals from Respondent
16 pursuant to this Order shall be sent to:

17 Robert Kou, Unit Chief
18 Statewide Compliance Division
19 Southern California Branch
20 Department of Toxic Substances Control
21 1011 North Grandview Avenue
22 Glendale, CA 91201

23 7.3. Communications: All approvals and decisions of
24 the Department made regarding such submittals and notifications
25 shall be communicated to Respondent in writing by a Branch
26 Chief, Department of Toxic Substances Control, or his/her
27 designee. No informal advice, guidance, suggestions, or
28 comments by the Department regarding reports, plans,
specifications, schedules, or any other writings by Respondent

1 shall be construed to relieve Respondent of its obligation to
2 obtain such formal approvals as may be required.

3 7.4. Department Review and Approval: If the Department
4 determines that any report, plan, schedule, or other document
5 submitted for approval pursuant to this Order fails to comply
6 with the Order or fails to protect public health or safety or the
7 environment, the Department may:

8 a. Modify the document as deemed necessary and approve
9 the document as modified; or

10 b. Return the document to Respondent with recommended
11 changes and a date by which Respondent must submit to the
12 Department a revised document incorporating the recommended
13 changes.

14 7.5. Compliance with Applicable Laws: Respondent
15 shall carry out this Order in compliance with all local, State,
16 and federal requirements, including but not limited to
17 requirements to obtain permits and to assure worker safety.

18 7.6. Endangerment during Implementation: In the event
19 that the Department determines that any circumstances or activity
20 (whether or not pursued in compliance with this Order) are
21 creating an imminent or substantial endangerment to the health
22 or welfare of people on the site or in the surrounding area or
23 to the environment, the Department may order Respondent to stop
24 further implementation for such period of time as needed to abate
25 the endangerment. Any deadline in this Order directly affected
26 by a Stop Work Order under this section shall be extended for the
27 term of such Stop Work Order.
28

1 7.7. Liability: Nothing in this Order shall
2 constitute or be construed as a satisfaction or release from
3 liability for any conditions or claims arising as a result of
4 past, current, or future operations of Respondent, except as
5 provided in this Order. Notwithstanding compliance with the
6 terms of this Order, Respondent may be required to take further
7 actions as are necessary to protect public health or welfare or
8 the environment.

9
10 7.8. Site Access: Access to the Site shall be
11 provided at all reasonable times to employees, contractors, and
12 consultants of the Department, and any agency having
13 jurisdiction. Nothing in this Order is intended to limit in any
14 way the right of entry or inspection that any agency may
15 otherwise have by operation of any law. The Department and its
16 authorized representatives may enter and move freely about all
17 property at the Site at all reasonable times for purposes
18 including but not limited to: inspecting records, operating logs,
19 and contracts relating to the Site; reviewing the progress of
20 Respondent in carrying out the terms of this Order; and
21 conducting such tests as the Department may deem necessary.
22 Respondent shall permit such persons to inspect and copy all
23 records, documents, and other writings, including all sampling
24 and monitoring data, in any way pertaining to work undertaken
25 pursuant to this Order.

26 7.9. Sampling, Data, and Document Availability:
27 Respondent shall permit the Department and its authorized
28 representatives to inspect and copy all sampling, testing,

1 monitoring, and other data generated by Respondent or on
2 Respondent's behalf in any way pertaining to work undertaken
3 pursuant to this Order. Respondent shall allow the Department
4 and its authorized representatives to take duplicates of any
5 samples collected by Respondent pursuant to this Order.
6 Respondent shall maintain a central depository of the data,
7 reports, and other documents prepared pursuant to this Order.
8 All such data, reports, and other documents shall be preserved
9 by Respondent for a minimum of six years after the conclusion of
10 all activities under this Order. If the Department requests that
11 some or all of these documents be preserved for a longer period
12 of time, Respondent shall either comply with that request,
13 deliver the documents to the Department, or permit the Department
14 to copy the documents prior to destruction. Respondent shall
15 notify the Department in writing at least six months prior to
16 destroying any documents prepared pursuant to this Order.

17 7.10. Government Liabilities: The State of California
18 shall not be liable for injuries or damages to persons or
19 property resulting from acts or omissions by Respondent or
20 related parties specified in paragraph 7.16 in carrying out
21 activities pursuant to this Order, nor shall the State of
22 California be held as a party to any contract entered into by
23 Respondent or its agents in carrying out activities pursuant to
24 this Order.

25 7.11. Additional Enforcement Actions: By agreeing to
26 this Order, the Department does not waive the right to take
27 further enforcement actions, except to the extent provided in
28 this Order.

1 7.12. Incorporation of Plans and Reports: All plans,
2 schedules, and reports that require Department approval and are
3 submitted by Respondent pursuant to this Order are incorporated
4 in this Order upon approval by the Department.

5 7.13. Extension Requests: If Respondent is unable to
6 perform any activity or submit any document within the time
7 required under this Order, the Respondent may, prior to
8 expiration of the time, request an extension of time in writing.
9 The extension request shall include a justification for the
10 delay.

11 PAYMENTS

12 8. Respondent shall pay the Department a total sum of
13 \$8,000 in penalties. The penalties shall be paid in four (4)
14 equal installments of \$2,000. Penalty payments are due and
15 payable on April 1, 2004, July 1, 2004, October 1, 2004 and
16 January 1, 2005. Any installment payment which is received by
17 the Department after the 15th day of the month in which it is due
18 is subject to a penalty in the amount of \$750.00, which shall be
19 paid by Respondent no later than the due date of the next
20 installment payment. If Respondent is late in making two (2) or
21 more payments, or fails to make a full installment payment within
22 thirty (30) days of its due date, then the Department, at its
23 option, may declare the entire balance of the outstanding
24 penalties immediately due and owing. If Respondent fails to make
25 payments as provided above, Respondent agrees to pay interest at
26 the rate established pursuant to Health and Safety Code, section
27 25360.1 and to pay all costs incurred by the Department in
28 pursuing collection including attorney's fees. Respondent hereby

1 agrees to send one employee to the California Compliance School
2 Modules I-IV. Respondent shall submit to the Department, within
3 185 days of the effective date of this Order, a Certificate of
4 Satisfactory Completion that the employee satisfactorily
5 completed California Compliance School Modules
6 I-IV. If Respondent fails to submit the required certificate to
7 the Department within 185 days of the effective date of this
8 Order, then Respondent agrees to pay the Department a penalty of
9 \$4,000.00 which shall be paid within 215 days of the effective
10 date of this Order. Respondent's checks shall be made payable to
11 Department of Toxic Substances Control, and shall be delivered
12 together with the attached Payment Voucher to:

13 Department of Toxic Substances Control
14 Accounting Office
15 1001 I Street, 21st floor
16 P. O. Box 806
17 Sacramento, California 95812-0806

18 A photocopy of the check shall be sent to:

19 Mehdi Nobari
20 Statewide Compliance Division
21 Southern California Branch
22 Department of Toxic Substances Control
23 1011 North Grandview Avenue
24 Glendale, CA 91201

25 OTHER PROVISIONS

26 9.1. Additional Enforcement Actions: By agreeing to
27 this Order, the Department does not waive the right to take
28 further enforcement actions, except to the extent provided in
this Order.

9.2. Penalties for Noncompliance: Failure to comply
with the terms of this Order may subject Respondent to civil
penalties and/or punitive damages for any costs incurred by the

1 Department or other government agencies as a result of such
2 failure, as provided by H&SC section 25188 and other applicable
3 provisions of law.

4 9.3 Parties Bound: This Order shall apply to and be
5 binding upon Respondent and its officers, directors, agents,
6 receivers, trustees, employees, contractors, consultants,
7 successors, and assignees, including but not limited to
8 individuals, partners, and subsidiary and parent corporations,
9 and upon the Department and any successor agency that may have
10 responsibility for and jurisdiction over the subject matter of
11 this Order.

12 9.4. Effective Date: The effective date of this Order
13 is the date it is signed by the Department.

14 9.5. Integration: This agreement constitutes the
15 entire agreement between the parties and may not be amended,
16 supplemented, or modified, except as provided in this agreement.

17 9.6. Compliance with Waste Discharge Requirements:
18 Respondent shall comply with all applicable waste discharge
19 requirements issued by the State Water Resources Control Board
20 or a California regional water quality control board.

21
22
23
24 Dated: 02/25/2004

25 ORIGINAL SIGNED BY RESPONDENT
Signature of Respondent's Representative

26
27 ORIGINAL SIGNED BY TINA FALCON , OWNER
28

Typed or Printed Name and Title of
Respondent's Representative

Dated: 03/03/2004

ORIGINAL SIGNED BY ROBERT KOU

Robert Kou, Unit Chief
Department of Toxic Substances
Control
Statewide Compliance Division
Glendale office